

104TH CONGRESS
1ST SESSION

S. 1154

To authorize the construction of the Fort Peck Rural County Water Supply System, to authorize assistance to the Fort Peck Rural County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the water supply system, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 10 (legislative day, JULY 10), 1995

Mr. BURNS introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To authorize the construction of the Fort Peck Rural County Water Supply System, to authorize assistance to the Fort Peck Rural County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the water supply system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fort Peck Rural Coun-
5 ty Water Supply System Act of 1995”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

1 (1) there is a need for a water supply system
2 in rural northeast Montana to provide a safe, reli-
3 able, and adequate water supply within the area
4 under the jurisdiction of the Fort Peck Rural Coun-
5 ty Water District, Inc.;

6 (2) no public water supply system currently
7 serves the area;

8 (3) ground water sources in the area are not
9 potable;

10 (4) the construction of a water supply system
11 will allow for economic enhancement in Valley Coun-
12 ty in northeastern Montana; and

13 (5)(A) adverse impacts on Montana, including
14 the flooding of thousands of acres of productive crop
15 land by the Fort Peck Reservoir, were caused by the
16 construction of the Fort Peck Dam in 1939; and

17 (B) the impacts have never been mitigated, and
18 the predicted benefits of the construction of the dam
19 have never been realized.

20 (b) PURPOSES.—The purposes of this Act are—

21 (1) to authorize the construction of a water
22 treatment facility and distribution system to provide
23 clean and safe water for domestic and limited live-
24 stock use to residents and landowners within the
25 area under the jurisdiction of the District; and

1 (2) to allocate Federal funding for the construc-
2 tion of the water supply system instead of funding
3 for agricultural irrigation systems, which has not
4 been appropriated, as intended and as authorized
5 under the Pick-Sloan Missouri River Basin Program
6 (authorized by section 9 of the Act entitled “An Act
7 authorizing the construction of certain public works
8 on rivers and harbors for flood control, and for other
9 purposes”, approved December 22, 1944 (commonly
10 known as the “Flood Control Act of 1944”) (58
11 Stat. 891)).

12 **SEC. 3. DEFINITIONS.**

13 In this Act (unless the context clearly requires other-
14 wise):

15 (1) CONSTRUCTION.—The term “construction”
16 means such activities associated with the actual de-
17 velopment or construction of facilities as are initi-
18 ated on execution of contracts for construction.

19 (2) DISTRICT.—The term “District” means the
20 Fort Peck Rural County Water District, Inc., a non-
21 profit corporation in Montana.

22 (3) FEASIBILITY STUDY.—The term “feasibility
23 study” means the study entitled “Final Engineering
24 Report and Alternative Evaluation for the Fort Peck
25 Rural County Water District”, dated September

1 1994, that includes a water conservation plan, envi-
2 ronmental report, and economic enhancement com-
3 ponent.

4 (4) PLANNING.—The term “planning” means
5 activities such as data collection, evaluation, design,
6 and other associated preconstruction activities re-
7 quired prior to the execution of contracts for con-
8 struction.

9 (3) SECRETARY.—The term “Secretary” means
10 the Secretary of the Interior.

11 (4) WATER SUPPLY SYSTEM.—The term “water
12 supply system” means the Fort Peck Rural County
13 Water Supply System, to be established and oper-
14 ated substantially in accordance with the feasibility
15 study.

16 **SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYS-**
17 **TEM.**

18 (a) IN GENERAL.—The Secretary shall enter into a
19 cooperative agreement with the District for the planning,
20 design, and construction by the District of the water sup-
21 ply system.

22 (b) SERVICE AREA.—The water supply system shall
23 provide for safe and adequate rural water supplies, eco-
24 nomic enhancement, mitigation of wetland areas, and
25 water conservation in the area under the jurisdiction of

1 the District in Valley County, northeastern Montana (as
2 described in the feasibility study).

3 (c) AMOUNT OF FEDERAL CONTRIBUTION.—

4 (1) IN GENERAL.—Subject to paragraph (3),
5 under the cooperative agreement, the Secretary shall
6 pay the Federal share of—

7 (A) the amount allocated in the total budg-
8 et for the planning, design, and construction of
9 the water supply system (as identified in the
10 feasibility study); and

11 (B) such sums as are necessary to defray
12 increases in the budget.

13 (2) FEDERAL SHARE.—The Federal share re-
14 ferred to in paragraph (1) shall be 80 percent and
15 shall not be reimbursable.

16 (3) TOTAL.—The amount of Federal funds
17 made available under the cooperative agreement
18 shall not exceed the amount of funds authorized to
19 be appropriated under section 9.

20 (4) LIMITATIONS.—Not more than 5 percent of
21 the amount of Federal funds made available to the
22 Secretary under section 9 may be used for activities
23 associated with—

1 (A) compliance with the National Environ-
2 mental Policy Act of 1969 (42 U.S.C. 4321 et
3 seq.); and

4 (B) oversight of the planning, design, and
5 construction by the District of the water supply
6 system.

7 (d) LIMITATION ON AVAILABILITY OF CONSTRUC-
8 TION FUNDS.—The Secretary shall not obligate funds for
9 the construction of the water supply system until the re-
10 quirements of the National Environmental Policy Act of
11 1969 (42 U.S.C. 4321 et seq.) have been met.

12 **SEC. 5. WATER CONSERVATION PROGRAM.**

13 The District shall design a water conservation pro-
14 gram to ensure that users of water from the water supply
15 system will use the best practicable technology and man-
16 agement techniques to conserve water use. The program
17 shall contain provisions for periodic review and revision
18 by the District, in cooperation with the Secretary.

19 **SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.**

20 In accordance with the feasibility study, mitigation
21 for fish and wildlife losses incurred as a result of the con-
22 struction and operation of the water supply system shall
23 be on an acre-for-acre basis, based on ecological equiva-
24 lency and concurrent with project construction.

1 **SEC. 7. EFFECT ON WATER PROJECTS IN STATES.**

2 Nothing in this Act limits the authorization for water
3 projects in Montana under any law that is in effect on,
4 or takes effect after, the date of enactment of this Act.

5 **SEC. 8. EFFECT ON WATER RIGHTS.**

6 Nothing in this Act—

7 (1) invalidates or preempts State water law or
8 an interstate compact governing water;

9 (2) alters the right of any State to any appro-
10 priated share of the waters of any body of surface
11 or ground water, whether determined under any
12 interstate compact, or any legislative or final judicial
13 allocation, that is in effect on, or takes effect after,
14 the date of enactment of this Act;

15 (3) preempts or modifies any Federal or State
16 law, or interstate compact, governing water quality
17 or disposal; or

18 (4) confers on any non-Federal entity the op-
19 tion to exercise any Federal right to the waters of
20 any stream or to any ground water source.

21 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

22 There are authorized to be appropriated to carry out
23 this Act \$5,800,000, to remain available until expended.
24 The funds authorized to be appropriated may be increased
25 or decreased by such amounts as are justified by reason
26 of ordinary fluctuations in development costs incurred

1 after October 1, 1994, as indicated by engineering cost
2 indices applicable to the type of construction project au-
3 thorized under this Act.

